



DANIEL HERRIGAN, MAYOR

September 18, 2018

Via Electronic Submission

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, District of Columbia 20554

Re: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79

Dear Secretary Dortch:

On behalf of the City of Akron, Ohio, I am writing to express our concerns about the Federal Communications Commission's (the "FCC") proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment (the "Report").

Like many cities in Ohio, the City of Akron welcomes the rapid deployment of new technology, both for our residents and businesses. Although we appreciate the FCC's efforts to engage with local governments on this important issue, and agree with the FCC's goal of ensuring cutting-edge broadband services for all, we remain deeply concerned about several provisions of this proposal. Cities and other forms of local government have a vital responsibility to protect the health, safety, and welfare of residents, and we are concerned that the preemption measures described in the Report compromise that traditional authority and expose wireless infrastructure providers to unnecessary liability. Generally, Akron opposes the Report, as it inappropriately infringes on concepts of local sovereignty and property rights. Specifically, Akron finds the following 3 provisions particularly troublesome:

Curtailment of Review

First, the FCC's proposed new collocation "shot clock" category is too extreme and does not provide municipalities sufficient time to properly (and carefully) review requested collocations. The proposal designates any preexisting structure, regardless of its design or suitability for attaching wireless equipment, as eligible for an expedited 60 day shot clock. When paired with the FCC's previous decision exempting small cell wireless facilities from federal historic and environmental review, this places an unreasonable burden on local governments. The addition of up to three cubic feet of antenna and 28 cubic feet of additional equipment to a structure not originally designed to carry that

equipment is substantial and necessitates more review than the FCC has permitted in the Report.

Effective Prohibition

Second, the FCC's proposed definition of "effective prohibition" is overly broad in that the Report proposes a definition of effective prohibition that invites challenges to local rights of way requirements unless they meet a subjective and unclear set of guidelines. While the FCC may have intended to preserve local review, this framing and definition of effective prohibition opens local governments to the likelihood of more, not less, conflict and litigation over requirements for aesthetics, spacing, and undergrounding.

Fee Structure

Third, the FCC's proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation. We disagree with the FCC's interpretation of "fair and reasonable compensation" as meaning approximately \$270 per small cell site. Local governments share the federal government's goal of ensuring affordable broadband access for every American, regardless of their income level or address. That is why many cities have worked to negotiate fair deals with wireless providers, which may exceed that number or provide additional benefits to the community. Additionally, the FCC has moved away from rate regulation in recent years. Why does it see fit to so narrowly dictate the rates charged by municipalities? This is an unreasonable restriction on local governments' ability to effectively serve their citizens with appropriate review. It also unfairly shifts the cost burden of the review from the private sector to local taxpayers.

The combined effect of the proposed reduced review timeframes, unclear definition of effective prohibition, and arbitrary fee caps is to incentivize the proliferation of small cell wireless facilities in public rights-of-way by telecom providers outside of a planned and coordinated process, and without consideration of the public health, safety, and welfare of the citizens of Akron. As such, we oppose this effort to restrict local authority and stymie local innovation, while limiting the obligations telecom providers have to our community. We urge you to oppose this declaratory ruling and report and order.

Sincerely,



Daniel Horrigan
Mayor of the City of Akron